

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF IDAHO**



**CIVIL AND CRIMINAL  
PROCEDURAL POLICIES  
OF THE  
DISTRICT JUDGES  
AND  
MAGISTRATE JUDGES**

**3rd Edition, Revised July 2001**

# **CIVIL AND CRIMINAL PROCEDURAL POLICIES OF THE DISTRICT JUDGES and MAGISTRATE JUDGES**

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<b>CIVIL: PRELIMINARY GENERAL MATTERS</b>				
<b>PROCEDURE</b>	<b><i>U.S. District Judge Edward J. Lodge</i></b>	<b><i>U.S. District Judge B. Lynn Winnill</i></b>	<b><i>U.S. Magistrate Judge Mikel H. Williams</i></b>	<b><i>U.S. Magistrate Judge Larry M. Boyle</i></b>
<b>1. CORRESPONDENCE WITH THE COURT.</b>	In accordance with Local Rule 77.7.	Ex parte communication by letter or otherwise is banned by Local Rule 77.7. The Court will accept calls or letters from counsel communicating stipulations such as agreements to extend deadlines. Confirming letters are also appropriate. All parties should receive copies of all correspondence.	Correspondence directed to the Court should not be ex parte; copies should be sent to all parties. Counsel may write a letter to the Court for the purpose of notifying the Court of something; however, a letter should not be used as a substitute for seeking relief on a matter more properly brought as a motion.	Correspondence directed to the Court should not be ex parte; copies should be sent to all parties. Counsel may write a letter to the Court for the purpose of notifying the Court of something; however, a letter should not be used as a substitute for seeking relief on a matter more properly brought as a motion.
<b>2. COMMUNICATIONS WITH STAFF ATTORNEYS OR LAW CLERKS.</b>	Telephone calls from counsel regarding status of motions; procedural questions; etc., are allowed. Opposing counsel should be included on conference call where appropriate.	(See above.) Law clerks are available to answer general procedural, scheduling, and non-substantive questions. Opposing counsel should be included when appropriate.	Counsel may contact the law clerk with questions relative to procedure or of a non-substantive nature about a particular case. Questions of a substantive nature or in which a party seeks an answer to a question from the Court, communicated through a law clerk, should be made in the presence of the other counsel or by telephone conference call. The law clerk may be reached by calling (208) 334-9330.	Counsel may contact the law clerk with questions relative to procedure or of a non-substantive nature about a particular case. Questions of a substantive nature or in which a party seeks an answer to a question from the Court, communicated through a law clerk, should be made in the presence of the other counsel or by telephone conference call. The law clerk may be reached by calling (208) 334-9010.

<b>CIVIL: PRELIMINARY GENERAL MATTERS</b>				
<b>PROCEDURE</b>	<b><i>U.S. District Judge Edward J. Lodge</i></b>	<b><i>U.S. District Judge B. Lynn Winmill</i></b>	<b><i>U.S. Magistrate Judge Mikel H. Williams</i></b>	<b><i>U.S. Magistrate Judge Larry M. Boyle</i></b>
<b>3. COMMUNICATIONS WITH COURTROOM DEPUTIES.</b>	Courtroom deputy handles all scheduling of Court's calendar. Parties can contact deputy clerk regarding such issues as necessary. Judge Lodge's courtroom deputy is Carol Vaughn, (208) 334-9022.	The courtroom deputy clerk handles scheduling of all calendar matters. Parties can contact the deputy clerk concerning such matters as necessary. Judge Winmill's courtroom deputy is LaDonna Garcia. (208) 334-9021.	The courtroom deputy will assist with administrative, procedural, and all calendar matters. You may contact or leave messages and a call will be returned ASAP. Judge Williams' courtroom deputy is Anne Lawron, (208) 334-9387.	The courtroom deputy handles scheduling of all calendar matters. Parties can contact the deputy clerk concerning such matters as necessary. Judge Boyle's courtroom deputy is Lynette Case (208) 334-9023.
<b>4. CHAMBERS' COPIES OF MOTION PAPERS.</b>	Judges copies are required by Local Rule 7.1(a)(1). The Court would like a copy of the motion <u>and</u> supporting memoranda, exhibits, and affidavits for all motions.	Local Rule 7.1(a)(1) requires the filing of a Court copy, and this does assist the Court. If you fax courtesy copies, please make a notation that it is a copy and that you are filing the original with the Clerk's Office.	In accordance with the Local Rules, a copy of all moving papers should be marked "Judge's Copy" and sent to chambers at the time a motion is filed.	In accordance with the Local Rules, a copy of all moving papers should be marked "Judge's Copy" and sent to chambers at the time a motion is filed.

<b>CIVIL: PRELIMINARY GENERAL MATTERS</b>				
<b>PROCEDURE</b>	<b><i>U.S. District Judge Edward J. Lodge</i></b>	<b><i>U.S. District Judge B. Lynn Winnill</i></b>	<b><i>U.S. Magistrate Judge Mikel H. Williams</i></b>	<b><i>U.S. Magistrate Judge Larry M. Boyle</i></b>
<b>5. TELEPHONE CONFERENCES.</b>	Held when oral argument is necessary, but attendance by parties is not possible or issue is limited in nature.	Status and scheduling conferences are routinely held by telephone. Non-dispositive motions may be held by telephone if all parties agree. Dispositive motions must be held in person, unless otherwise authorized by the Court. The moving party (or the plaintiff, in the case of scheduling and status conferences) will be responsible for initiating the telephone conference, and should check with the courtroom deputy to determine which court personnel should be included on the call, and the telephone numbers at which they can be reached. Counsel are required to use a telephone conferencing service since the teleconferencing feature on counsel's own telephone system has proven to be inadequate.	As a general rule, Judge Williams will hear non-dispositive motions, status and scheduling conferences, and other matters via telephone if all parties agree. Requests for telephone hearings should be made through the courtroom deputy. The party responsible for initiating a telephone hearing conference call should direct the call to Judge Williams' courtroom at (208) 334-1504.	As a general rule, Judge Boyle will hear non-dispositive motions, status and scheduling conferences, and other matters via telephone if all parties agree. Requests for telephone hearings should be made through the courtroom deputy. The party responsible for initiating a telephone hearing conference call should direct the call to Judge Boyle's chambers, (208) 334-1495.

CIVIL: PRELIMINARY GENERAL MATTERS				
PROCEDURE	<i>U.S. District Judge Edward J. Lodge</i>	<i>U.S. District Judge B. Lynn Winnill</i>	<i>U.S. Magistrate Judge Mikel H. Williams</i>	<i>U.S. Magistrate Judge Larry M. Boyle</i>
6. ORAL ARGUMENTS AND EVIDENTIARY HEARINGS.	Upon review of the briefing, the Court determines if a hearing is necessary. Hearings are the exception rather than the rule. If a hearing is necessary, the Court calendars a hearing through the courtroom deputy in accordance with Local Rule 7.1(d).	Oral argument is perceived to be of crucial importance. Oral argument will routinely be held on all dispositive motions and on significant motions in limine. Oral argument on significant non-dispositive motions may be requested through the law clerks. Time limits on oral argument will generally be imposed. The Court will have read the briefs, and counsel will be expected to go right to the heart of their argument. <u>To set a hearing, please call the courtroom deputy, LaDonna Garcia at (208) 334-9012.</u>	Counsel are generally requested to present oral argument on dispositive and non-dispositive motions unless calendar restraints prevent holding a hearing. The moving party should contact the courtroom Deputy for a hearing date <u>at the time the motion is filed</u> . After receiving a hearing date from the courtroom deputy, the moving party must prepare the notice of hearing and mail it to all parties, with an original to the Court and a copy to the courtroom deputy.	In accordance with Local Rule 7.1(d), and upon review of the briefing, the Court determines if a hearing is necessary. If a hearing is necessary, the Court calendars a hearing through the courtroom deputy.



CIVIL: CONTINUANCES AND EXTENSIONS				
PROCEDURE	<i>U.S. District Judge Edward J. Lodge</i>	<i>U.S. District Judge B. Lynn Winnmill</i>	<i>U.S. Magistrate Judge Mikel H. Williams</i>	<i>U.S. Magistrate Judge Larry M Boyle</i>
1. GENERAL POLICY.	Good cause must be shown and cases are evaluated on a case-by-case basis.	Trial dates are set with the agreement of counsel. Consequently, a change in the trial date will only be made in extraordinary circumstances. All other deadlines are subject to change if stipulated to by counsel and they will not impact the trial date.	Requests for continuances and extensions are generally looked at in terms of the impact that it would have on hearing or trial dates that have been set, as well as the reasons for the request.	Good cause must be shown and cases are evaluated on a case-by-case basis.
2. REQUESTS FOR EXTENSIONS.	Extensions of time are granted for good cause shown if not prejudicial to other parties and if such do not require a significant modification of the scheduling order. All such requests should be accompanied by a proposed order. In making a request, it is helpful if the movant contacts the opposing party beforehand to discuss it and then advise the Court if the parties are in agreement.	All requests for extensions should be made by a motion in writing and should be accompanied by a written stipulation of counsel if the same can be obtained. All such requests shall be accompanied by a proposed order, certificate of mailing, and envelopes.	Requests for extensions should be made by motion in writing, and should be submitted with a proposed order for Judge Williams to sign as well as addressed envelopes. In making a request, it is helpful if the movant contacts the opposing party beforehand to discuss it and then advise the Court if the parties are in agreement.	Requests for extensions should be made by motion in writing, and should be submitted with a proposed order for Judge Boyle to sign as well as addressed envelopes. In making a request, it is helpful if the movant contacts the opposing party beforehand to discuss it and then advise the Court if the parties are in agreement.

CIVIL: DISCOVERY				
PROCEDURE	<i>U.S. District Judge Edward J. Lodge</i>	<i>U.S. District Judge B. Lynn Winnmill</i>	<i>U.S. Magistrate Judge Mikel H. Williams</i>	<i>U.S. Magistrate Judge Larry M Boyle</i>
1. CONFIDENTIALITY AGREEMENTS.	The Court will generally honor agreements the parties have made to keep documents or other information confidential. In cases where the parties enter such an agreement or stipulation, a proposed order approving the agreement and addressed envelopes should be submitted.	Experienced counsel usually reach agreement on such agreements to protect trade secrets and the like. The Court expresses no opinion on agreements sealing civil suits as a condition of settlement.	The Court will generally honor agreements the parties have made to keep documents or other information confidential. In cases where the parties enter such an agreement or stipulation, a proposed order approving the agreement and addressed envelopes should be submitted.	The Court will generally honor agreements the parties have made to keep documents or other information confidential. In cases where the parties enter such an agreement or stipulation, a proposed order approving the agreement and addressed envelopes should be submitted.
2. LENGTH OF DISCOVERY PERIOD AND EXTENSIONS.	Pursuant to Local Rule 16.1, the parties will meet and determine a litigation plan. In determining their case litigation plan, counsel shall be expected to follow the civil case litigation outline as provided by the court. Limited extensions are granted if such extension does not interfere with the scheduled trial date.	The Court has found that counsel are usually in agreement at the Rule 16 Scheduling Conference as to how much time they need for discovery. When counsel agree, the Court usually does not impose a different deadline. Extensions are permitted so long as the trial date is not affected.	Length of discovery period will be discussed at the scheduling conference. The Court prefers to have extension motions in the form of a stipulation between parties. A stipulation should be submitted with a proposed order approving it and an addressed envelope.	Length of discovery period will be discussed at the scheduling conference. The Court prefers to have extension motions in the form of a stipulation between parties. A stipulation should be submitted with a proposed order approving it and an addressed envelope. Limited extensions may be granted if the extension does <u>not</u> interfere with the trial date.

CIVIL: DISCOVERY				
PROCEDURE	<i>U.S. District Judge Edward J. Lodge</i>	<i>U.S. District Judge B. Lynn Winmill</i>	<i>U.S. Magistrate Judge Mikel H. Williams</i>	<i>U.S. Magistrate Judge Larry M. Boyle</i>
<b>3. DISCOVERY CONFERENCES AND DISPUTE RESOLUTION.</b>	Discovery conferences not normally held. Local Rule 37.1 applies for discovery disputes. The Court refers most discovery matters to the magistrate judges.	The Court refers most discovery matters to the magistrate judges.	If parties cannot agree upon discovery, a motion to compel should be filed as stated in the Local Rules. Moving party should contact the courtroom deputy for a hearing date. The Court prefers, however, not to get involved in discovery disputes and strongly encourages the parties to attempt to resolve disputes amongst themselves before filing a motion to compel, as provided in the Local Rules.	Parties should attempt to resolve discovery disputes. If parties cannot agree upon discovery, a motion should be filed as stated in the Local Rules. The Court prefers, however, not to get involved in discovery disputes and strongly encourages the parties to attempt to resolve disputes amongst themselves before filing motions, as provided in the Local Rules.
<b>4. EXPERT WITNESSES.</b>	In accordance with Local Rule 26.2(b).	With regard to the disclosure of expert witnesses, the Court requires strict adherence to the terms of its scheduling order, the Federal Rules, and the Local Rules. Failure to comply with those requirements, including the filing of a full and complete Rule 26 Report, will result in exclusion of the expert's testimony.	Deadlines for when expert witnesses must be revealed and when their reports must be exchanged will be set at the initial scheduling conference. Defendants will generally have 30 days past the plaintiff's deadline in which to reveal their experts. Separate deadlines for the completion of expert and factual discovery are usually set.	Deadlines for when expert witnesses must be revealed and when their reports must be exchanged will be set at the initial scheduling conference. Defendants will generally have 30 days past the plaintiff's deadline in which to reveal their experts. Separate deadlines for the completion of expert and factual discovery are usually set.

CIVIL: SETTLEMENT				
PROCEDURE	<i>U.S. District Judge Edward J. Lodge</i>	<i>U.S. District Judge B. Lynn Winnill</i>	<i>U.S. Magistrate Judge Mikel H. Williams</i>	<i>U.S. Magistrate Judge Larry M. Boyle</i>
<b>1. GENERAL APPROACH TO SETTLEMENT.</b>	If requested, settlement conference will be scheduled with a magistrate judge. Mediation is also available and is discussed during the scheduling conference. Counsel will be expected to have discussed ADR with their client(s) prior to the Rule 16 scheduling conference and to report at that conference on their client's willingness to participate in mediation, settlement conference, or other forms of ADR.	The Court will use any settlement option and recommends the use of the Court's mediation program. You can contact Le Kelleher, ADR Administrator, (208) 334-9423, for assistance with the ADR program and settlement conferences with the magistrate judges. Counsel will be expected to have discussed ADR with their client(s) prior to the Rule 16 scheduling conference and to report at that conference on their client's willingness to participate in mediation, settlement conference, or other forms of ADR.	ADR will be discussed with all parties at the scheduling conferences. Parties should be prepared to advise Court which of the ADR options their client prefers. <u>When all parties agree</u> to a court-assisted settlement conference, it will be set on a mutually agreeable date, and a settlement conference order will issue. Full- and half-day conferences are available. A confidential settlement brochure is due in chambers 1 week before the conference and it should address the points set forth in the Court's settlement conference order. Settlement brochures are returned to the parties at the end of the settlement conference to maintain confidentiality and to ensure that they are not placed in the file.	ADR will be discussed with all parties at the scheduling conferences. Parties should be prepared to advise Court which of the ADR options their client prefers. <u>When all parties agree</u> to a court-assisted settlement conference, it will be set on a mutually agreeable date, and a settlement conference order will issue. Full- and half-day conferences are available. A confidential settlement brochure is due in chambers 1 week before the conference and it should address the points set forth in the Court's settlement conference order. Settlement brochures are returned to the parties at the end of the settlement conference to maintain confidentiality and to ensure that they are not placed in the file.
<b>2. REFERRAL FOR SETTLEMENT CONFERENCE TO ANOTHER JUDGE.</b>	Upon request by the parties and as long as there is sufficient time prior to the trial date, such request is forwarded to the chief magistrate judge for scheduling.	Upon request by the parties and as long as there is sufficient time prior to the trial date, the matter will be referred to the chief magistrate judge for the scheduling of a settlement conference.	In cases referred for pretrial matters, a settlement conference would be referred to the other magistrate judge.	Upon request by the parties, a case may be referred to another judge for a settlement conference.

CIVIL: SETTLEMENT				
PROCEDURE	<i>U.S. District Judge Edward J. Lodge</i>	<i>U.S. District Judge B. Lynn Winmill</i>	<i>U.S. Magistrate Judge Mikel H. Williams</i>	<i>U.S. Magistrate Judge Larry M. Boyle</i>
<b>3. REFERRAL TO MEDIATION.</b>	Discussed during scheduling conference. In accordance with Local Rule 16.5, ADR is not ordered in the absence of an agreement.	Alternative dispute resolution will be discussed during scheduling conference and ordered if agreed to by all parties. ADR is not ordered in the absence of an agreement.	If the parties wish to engage in mediation, they should notify the Court and the matter will then be referred to the District's ADR Coordinator, Le Kelleher, who will then contact the parties and make arrangements accordingly.	If the parties wish to engage in mediation, they should notify the Court and the matter will then be referred to the District's ADR Coordinator, Le Kelleher, who will then contact the parties and make arrangements accordingly.
<b>4. REFERRAL TO ARBITRATION.</b>	Discussed during scheduling conference. Upon request of the parties, the Court will order such and stay case. ADR is not ordered in the absence of an agreement.	(See above).	(See above.)	(See above.)

CIVIL: PRETRIAL PROCEDURES				
PROCEDURE	<i>U.S. District Judge Edward J. Lodge</i>	<i>U.S. District Judge B. Lynn Winmill</i>	<i>U.S. Magistrate Judge Mikel H. Williams</i>	<i>U.S. Magistrate Judge Larry M. Boyle</i>
<b>1. RULE 16 SCHEDULING CONFERENCE.</b>	Conducted 90 days after complaint is filed by the Administrative Assistant or Courtroom Deputy.	Rule 16 scheduling conferences are scheduled by LaDonna Garcia, Courtroom Deputy. Scheduling conferences are usually conducted by the Judge. If he is unavailable, they will be conducted by his Administrative Office, Susie Boring-Headlee.	As stated in Local Rule 16.1, each party should fill out and send to the Court prior to the scheduling conference a litigation plan. The litigation plan should contain specific dates rather than a length of time, e.g., "180 days before trial." Judge Williams presides over his scheduling conferences which generally are held by telephone.	As stated in Local Rule 16.1, each party should fill out and send to the Court prior to the scheduling conference a litigation plan which covers the parties' stipulated deadline dates. Judge Boyle presides over his scheduling conferences which generally are held by telephone.
<b>2. PRETRIAL CONFERENCES.</b>	Court does not normally hold formal pretrial conferences. In complex cases, conferences will be held.	These are conducted by the Judge.	A pretrial conference is set at the time of the initial scheduling conference. Generally, it will take place 10 days to 2 weeks prior to the trial date. At that time the Court will discuss its general trial preferences, jury instructions, etc. Counsel will also be asked to discuss whether or not to allow the jurors to ask questions of the witnesses.	Judge Boyle generally sets a pretrial trial conference two weeks before trial. The Court will discuss its general trial preferences, jury instructions, etc. Court will then discuss its trial preferences. Stipulated exhibit and witness lists are due at that time.

CIVIL: PRETRIAL PROCEDURES				
PROCEDURE	<i>U.S. District Judge Edward J. Lodge</i>	<i>U.S. District Judge B. Lynn Winmill</i>	<i>U.S. Magistrate Judge Mikel H. Williams</i>	<i>U.S. Magistrate Judge Larry M. Boyle</i>
<b>3. REFERRAL TO MAGISTRATE JUDGES</b>	Certain categories of cases such as Social Security appeals and tax issues are routinely referred for all pretrial matters. Other civil matters are referred on a case-by-case basis and may be for all pretrial motions or just for non-dispositive pretrial motions. Referrals are generally made at the time of the Rule 16 scheduling conference.	Certain categories of cases are routinely referred. Other civil matters are routinely referred for all pretrial matters, unless the Court determines that judicial economy would better be served by not referring the case. Referrals are generally made at the time of the Rule 16 scheduling conference.	Does not apply.	Does not apply.

CIVIL: INJUNCTIONS				
PROCEDURE	<i>U.S. District Judge Edward J. Lodge</i>	<i>U.S. District Judge B. Lynn Winnill</i>	<i>U.S. Magistrate Judge Mikel H. Williams</i>	<i>U.S. Magistrate Judge Larry M Boyle</i>
1. SCHEDULING AND EXPEDITING DISCOVERY.	For good cause shown, expedited scheduling is granted. Helpful to notify law clerk/staff attorney of written request after filing for such treatment.	Contact law clerks to discuss emergency TROs.	The Court follows the directives set forth in Fed. R. Civ. P. 65 for motions for preliminary injunctions or for TROs. The Court expressly reserves the right to shorten the briefing periods <u>sua sponte</u> from that set forth in the Local Rules in order to hold a hearing expeditiously.	The Court follows the directives set forth in Fed. R. Civ. P. 65 for motions for preliminary injunctions or for TROs. The Court expressly reserves the right to shorten the briefing periods <u>sua sponte</u> from that set forth in the Local Rules in order to hold a hearing expeditiously.
2. PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW.	The Court will expect these at a preliminary injunction hearing.	The Court will expect these at a preliminary injunction hearing.	Depending upon the complexity of the matters at issue, the Court may request that the parties submit proposed findings of fact and conclusions of law after the hearing has concluded.	Depending upon the complexity of the matters at issue, the Court may request that the parties submit proposed findings of fact and conclusions of law after the hearing has concluded.
3. REFERRAL TO MAGISTRATE JUDGES	Not normally referred.	The Court does not refer TROs or preliminary injunctions to magistrate judges. The report and recommendation process is too cumbersome.	Does not apply.	Does not apply.



CIVIL: TRIAL PROCEDURES				
PROCEDURE	<i>U.S. District Judge Edward J. Lodge</i>	<i>U.S. District Judge B. Lynn Winmill</i>	<i>U.S. Magistrate Judge Mikel H. Williams</i>	<i>U.S. Magistrate Judge Larry M Boyle</i>
1. SCHEDULING OF CASES.	All scheduling is handled at the time of the Rule 16 scheduling conferences. Multiple civil cases may be set for the same date and criminal cases may cause a civil trial to be postponed. Counsel should assume that the trial will proceed to trial on the date set unless otherwise notified by the Court.	All scheduling is handled at the time of the Rule 16 scheduling conferences. Multiple civil cases may be set for the same date; criminal cases will not be set for the same date as a previously scheduled civil case. Multiple settings rarely result in continuances, and counsel should assume that the trial will proceed to trial on the date set.	Judge Williams does not double set his trials. If you have a trial setting, you are assured of a first setting.	All scheduling is handled at the time of the Rule 16 Scheduling Conference. Judge Boyle conducts the scheduling conference and will review the litigation plan submitted by counsel.
2. CONFLICTS OF COUNSEL.	Counsel should resolve conflicts to the best of their abilities without judicial intervention. If conflicts cannot be resolved, they should be brought to the Court's attention by written pleadings.	Counsel should resolve conflicts to the best of their abilities without judicial intervention. If conflicts cannot be resolved, they should be brought to the Court's attention by written pleadings.	Counsel should resolve conflicts to the best of their abilities without judicial intervention. If conflicts cannot be resolved, they should be brought to the Court's attention by written pleadings.	Counsel should resolve conflicts to the best of their abilities without judicial intervention. If conflicts cannot be resolved, they should be brought to the Court's attention by written pleadings.
3. CASES INVOLVING OUT-OF-TOWN PARTIES OR WITNESSES.	Will accommodate out-of-town witnesses to testify out of order only if convenient for both parties and they both agree. The Court tries to hold trial in the division that case is filed: northern, eastern, southern.	Counsel will be expected to cooperate in scheduling witnesses to accommodate out-of-town witnesses and to minimize costs.	Counsel will be expected to work together on witness scheduling to accommodate out-of-town witnesses and to keep costs down.	Will accommodate out-of-town witnesses to testify out of order only if convenient for both parties and they both agree. The Court tries to hold trial in the division that case is filed: northern, eastern, southern.
4. NOTE TAKING BY JURORS.	Allowed and provided for in jury instructions.	Allowed. We give the standard Ninth Circuit instruction on jury notes.	Jurors are allowed to take notes. The notes are for that juror's use only and are destroyed at the end of the trial.	Jurors are allowed to take notes for their own personal use. Notes are destroyed at the end of the trial.

CIVIL: TRIAL PROCEDURES				
PROCEDURE	<i>U.S. District Judge Edward J. Lodge</i>	<i>U.S. District Judge B. Lynn Winnill</i>	<i>U.S. Magistrate Judge Mikel H. Williams</i>	<i>U.S. Magistrate Judge Larry M. Boyle</i>
5. SUBMISSION OF QUESTIONS BY JURORS.	Not normally allowed.	May be permitted if raised before trial by counsel. Is not done as a matter of course.	Jury questions are only allowed with the approval of all parties. After the witness has finished testifying, each juror passes a piece of paper. Jury questions will be marked as court exhibits. Counsel, at a side bar, review the question, state any objection, and then the question is asked of the witness by the Judge.	Not allowed.
6. TRIAL BRIEFS.	Normally due 2 weeks before trial date.	Typically, the Court's scheduling orders require trial briefs to be filed the same day as the pretrial conference, about 10 days prior to trial.	Submission of trial memoranda will be discussed at the pretrial conference.	Normally due two weeks before trial.
7. VOIR DIRE.	Primarily conducted by Court to the jury panel as a whole after considering proposed voir dire of parties (due 2 weeks before trial). Counsel, when appropriate, are allowed a short follow-up of 5 to 10 minutes.	Counsel may submit proposed voir dire to be asked by the Court. Non-argumentative questions will generally be asked. Counsel will get 10-15 minutes per side after the Court is done.	Primarily conducted by Court to the jury panel as a whole after considering proposed voir dire of parties (due 2 weeks before trial). Counsel allowed to follow up on Court's voir dire.	Primarily conducted by Court to the jury panel as a whole after considering proposed voir dire of parties (due 2 weeks before trial). Counsel allowed to follow up on Court's voir dire.

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PROCEDURE	<i>U.S. District Judge Edward J. Lodge</i>	<i>U.S. District Judge B. Lynn Winnill</i>	<i>U.S. Magistrate Judge Mikel H. Williams</i>	<i>U.S. Magistrate Judge Larry M Boyle</i>
<b>8. SIDE BARS.</b>	The Court prefers to keep side bar conferences to a minimum. Any matters that counsel wish to address outside of the jury's presence should be done before trial begins or resumes in the morning, at breaks, or at the end of a day. Whenever possible, counsel should notify the Court's law clerk to arrange a time for such matters to be considered.	Discouraged, but permitted. Any matter that counsel wishes to address outside the jury's presence should be heard before trial begins, during recesses, or at the end of the day.	The Court prefers to keep side bar conferences to a minimum. Any matters that counsel wish to address outside of the jury's presence should be done before trial begins or resumes in the morning, at breaks, or at the end of a day. Whenever possible, counsel should notify the Court's law clerk to arrange a time for such matters to be considered.	The Court prefers to keep side bar conferences to a minimum. Any matters that counsel wish to address outside of the jury's presence should be brought to the Court's attention before trial begins or resumes in the morning, at breaks, or at the end of a day. Whenever possible, counsel should notify the Court's law clerk to arrange a time for such matters to be considered.
<b>9. IN LIMINE MOTIONS.</b>	A deadline for the submission of motions in limine will be set at the initial scheduling conference. Counsel are cautioned that dispositive matters are not to be brought disguised as motions in limine. However, Court may not hear motions until shortly before trial or during trial.	Encouraged. The Court wants to resolve as many evidence questions prior to trial as possible.	A deadline for the submission of motions in limine will be set at the initial scheduling conference. Counsel are cautioned that dispositive matters are not to be brought disguised as motions in limine.	To be filed by pretrial motion deadline, where possible. However, Court may not hear motions until shortly before trial or during trial.
<b>10. EXAMINATION OF WITNESSES OUT OF SEQUENCE.</b>	Allowed where necessary.	Allowed where necessary, particularly where necessary to keep the trial moving and to keep jurors hearing testimony from 9 to 5.	The Court recognizes that at times witnesses need to be called out of order and generally after conferring with all counsel, the request is approved.	If necessary and parties agree, Court will accommodate.

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11. EXAMINATION OF WITNESSES OR ARGUMENT BY MORE THAN ONE ATTORNEY.	Not normally allowed. The attorney who examines the witness must also function as the objecting attorney on any issues relating to that witness. Argument may be tag-teamed in appropriate cases.	Not normally allowed. Objections to opposing counsel's questions may only be made by the attorney conducting the examination of that witness.	The Court follows the Local Rule. Only one attorney per side may conduct an examination of the witness.	The Court follows the Local Rule. Only one attorney per side may conduct an examination of the witness.
12. OPENING STATEMENTS AND SUMMATIONS.	Time limits for such statements will be set by the Court after consultation with counsel. Time limits will be enforced by the Court. Visual aids are allowed, but Court generally has counsel stay in the area of the podium for such presentations.	Time limits for such statements will be set by the Court after consultation with counsel. Visual aids permitted with prior approval of the Court. Trial exhibits may only be used if their admission has been stipulated to prior to the trial.	The Court provides counsel with an opportunity to give opening statements after the jury is sworn and preliminary instructions are given. Counsel for the defense may reserve giving an opening statement until the beginning of the defendant's case. Closing arguments are allowed at a point during the Court's final jury instructions.	The Court provides counsel with an opportunity to give opening statements after the jury is sworn and preliminary instructions are given. Counsel for the defense may reserve giving an opening statement until the beginning of the defendant's case. Closing arguments are allowed at a point during the Court's final jury instructions.
13. EXAMINATION OF WITNESSES BEYOND REDIRECT AND RECROSS.	Not normally allowed.	Rarely permitted.	Not normally allowed.	Not normally allowed.

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PROCEDURE	<i>U.S. District Judge Edward J. Lodge</i>	<i>U.S. District Judge B. Lynn Winnmill</i>	<i>U.S. Magistrate Judge Mikel H. Williams</i>	<i>U.S. Magistrate Judge Larry M Boyle</i>
14. VIDEOTAPED TESTIMONY.	Allowed where necessary.	Allowed. Evidentiary objections should be resolved and the videotape edited, in advance of trial.	Videotaped testimony will be allowed if it meets the requirements of the Fed. R. Ev. and Fed. R. Civ. P. If a party objects to the presentation of videotaped testimony, the objection should be raised as a motion in limine or as early as possible before the testimony is anticipated in order to give the Court time to consider its ruling and to avoid delay at trial.	Videotaped testimony will be allowed if it meets the requirements of the Fed. R. Ev. And Fed. R. Civ. P. If a party objects to the presentation of videotaped testimony, the objection should be raised as a motion in limine or as early as possible before the testimony is anticipated in order to give the Court time to consider its ruling and to avoid delay at trial. Parties must advise the Court prior to trial so the equipment can be made available.
15. READING OF MATERIAL INTO THE RECORD.	Allowed where necessary.	Allowed.	If a written exhibit is received into evidence, the Court will at times allow a witness to read a pertinent portion of the exhibit to the jury rather than wait until the jury retires to deliberate on a verdict and then read the exhibit.	Allowed where necessary.

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<b>16. PREPARATION OF EXHIBITS.</b>	Parties are directed to coordinate exhibits with courtroom deputy before trial begins in accordance with Scheduling Conference Order. Parties should submit the original and two copies of all marked exhibits along with the same number of witnesses and exhibit lists on the first day of trial. Counsel must meet together before trial to attempt to reach a stipulation as to the admissibility of exhibits. The exhibit list should identify any stipulations reached by counsel.	Trial exhibits must be premarked in accordance with directions from the courtroom deputy. Parties should submit the original and one copy of all marked exhibits in 3-ring binders along with the same number of witnesses and exhibit lists prior to trial. The Court's own Exhibit List form must be used and may be obtained from the courtroom deputy, either in hard copy or on a 3.5" disk provided by counsel (WordPerfect 6.1 Format). Counsel must meet together before trial to attempt to reach a stipulation as to the admissibility of exhibits. The exhibit list should identify any stipulations reached by counsel.	Each party should contact the courtroom deputy for exhibit numbers. Parties should submit the original and two copies of all marked exhibits to the Court along with the same number of witness and exhibit lists prior to trial. The Court exhibit/ witness list form should be followed.	Exhibits should be submitted in accordance with the scheduling conference order. The Court encourages as many stipulations as possible prior to trial. Exhibit lists are provided by the courtroom deputy.
<b>17. OFFERING EXHIBITS INTO EVIDENCE.</b>	Consistent with Local and Federal Rules.	Consistent with Local and Federal Rules. Where a stipulation has been reached prior to trial, no foundation must be laid and the exhibit will be immediately admitted into evidence upon it being offered by counsel. After an exhibit is admitted, it may be published to the jury through the Court's Evidence Presentation System.	Exhibits may be offered into evidence after the appropriate foundation has been laid. The Court will ask whether the other party has any objection.	Exhibits may be offered into evidence after the appropriate foundation has been laid. The Court will ask whether the other party has any objection.

CIVIL: TRIAL PROCEDURES				
PROCEDURE	<i>U.S. District Judge Edward J. Lodge</i>	<i>U.S. District Judge B. Lynn Winmill</i>	<i>U.S. Magistrate Judge Mikel H. Williams</i>	<i>U.S. Magistrate Judge Larry M Boyle</i>
18. JUDGMENT AS A MATTER OF LAW.	Consistent with Local and Federal Rules.	Consistent with Local and Federal Rules.	The Court will hear a motion for judgment as a matter of law at the end of the presentation of the non-moving party's evidence.	The Court will hear a motion for judgment as a matter of law at the end of the presentation of the non-moving party's evidence.
19. PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW.	In court trials, normally, to be filed 2 weeks before trial.	Required for bench trials.	In cases that are determined by bench trial, the Court will set a deadline for the submission of proposed findings of fact and conclusions of law by each party.	In cases that are determined by bench trial, the Court will set a deadline for the submission of proposed findings of fact and conclusions of law by each party.
20. PROPOSED JURY INSTRUCTIONS AND VERDICT FORMS.	Pursuant to Local Rule 51.1 In accordance with Scheduling Conference Order, proposed jury instructions, and verdict forms must be filed with the Court 2 weeks before trial. In addition to the Judge's hard copies of proposed jury instructions, the instructions should also be submitted on a 3.5" disk (WordPerfect 6.1 format).	Must be submitted within the time periods prescribed by local rule and the Court's Scheduling Order. The Court prefers submission on a 3.5" disk (WordPerfect 6.1 format).	The Court discusses the submission of proposed jury instructions and verdict forms at the pretrial conference. The Local Rule applies. The Court prefers submission on a 3.5" disc formatted to WordPerfect 8.0.	The Court discusses the submission of proposed jury instructions and verdict forms at the pretrial conference. The Local Rule applies. Court prefers submission on computer 3.5" disc formatted to WordPerfect 6.1.

CIVIL: JURY INSTRUCTION CONFERENCE				
PROCEDURE	<i>U.S. District Judge Edward J. Lodge</i>	<i>U.S. District Judge B. Lynn Winmill</i>	<i>U.S. Magistrate Judge Mikel H. Williams</i>	<i>U.S. Magistrate Judge Larry M Boyle</i>
<b>1. EXHIBITS IN THE JURY ROOM</b>	All admitted exhibits (except those admitted solely for demonstrative purposes) are provided to jury at time of deliberations. Transcripts are not provided.	All admitted exhibits, other than those admitted solely for demonstrative purposes, will be provided to the jury at the time of deliberations. After the trial is over, counsel will meet with the courtroom deputy and ensure that all exhibits are in proper form (with all redactions completed) and that there is no dispute as to which exhibits were admitted and which were not. If the exhibits are voluminous, counsel are urged to prepare an index of the admitted exhibits for the jury's use.	After trial is over, counsel will meet with the Court's courtroom deputy and reach agreement on which exhibits were admitted. These are then submitted to the jury to review during deliberations.	All admitted exhibits will go the jury room for use in deliberations.
<b>2. AVAILABILITY OF COUNSEL DURING JURY DELIBERATIONS.</b>	Counsel must give the Court's courtroom deputy their telephone numbers and must stay within 15 minutes' driving distance of the courtroom.	Counsel must give the Court's courtroom deputy their telephone numbers and must stay within 15 minutes' driving distance of the courtroom.	Counsel are asked to provide the telephone number and location of where they can be reached if they leave the immediate area during deliberations.	Counsel must leave their telephone number with the courtroom deputy where they will be at all times. If they leave the courthouse, they must call and provide the new telephone numbers.



CIVIL: JURY INSTRUCTION CONFERENCE				
PROCEDURE	<i>U.S. District Judge Edward J. Lodge</i>	<i>U.S. District Judge B. Lynn Winnill</i>	<i>U.S. Magistrate Judge Mikel H. Williams</i>	<i>U.S. Magistrate Judge Larry M Boyle</i>
<b>3. HANDLING OF JUROR REQUESTS TO READ BACK TESTIMONY OR REPLAY TAPES.</b>	Allowed when requested by jurors. Court, counsel, and parties are present during read-back by the court reporter.	Allowed when required by the jurors. Court, counsel, and parties are present during the read-back.	For a number of reasons, the Court discourages the reading back of testimony or replay of an electronic recording. If the jury makes such a request in the course of deliberations, the Court will treat it the same as if it were a question from the jury. The request will be marked as a court exhibit, and it will first be discussed with counsel outside the presence of the jury. The Court will then have the jury brought in and will answer the jury's request on the record.	For a number of reasons, the Court discourages the reading back of testimony or replay of an electronic recording. If the jury makes such a request in the course of deliberations, the Court will treat it the same as if it were a question from the jury. The request will be marked as a court exhibit, and it will first be discussed with counsel outside the presence of the jury. The Court will then have the jury brought in and will answer the jury's request on the record.
<b>4. TAKING THE VERDICT AND SPECIAL INTERROGATORIES.</b>	Done in open court and filed by courtroom deputy.	The Court examines the verdict and has the courtroom deputy publish the verdict.	Once the jury indicates that it has reached a verdict, counsel will be notified to return to the courtroom. The jury will be brought in and the verdict form will be examined by the Court. The verdict will then be published by the courtroom deputy	Once the jury indicates that it has reached a verdict, counsel will be notified to return to the courtroom. The jury will be brought in and the verdict form will be examined by the Court. The verdict will then be published by the courtroom deputy
<b>5. POLLING THE JURY.</b>	Allowed when requested by either or both sides.	Done if requested.	The jury members will be individually polled after the verdict is read if counsel requests it.	Generally, the jury members are individually polled by the courtroom deputy.

## **CRIMINAL PROCEDURES AND POLICIES**

CRIMINAL PROCEDURES				
PROCEDURE	<i>U.S. District Judge Edward J. Lodge</i>	<i>U.S. District Judge B. Lynn Winnill</i>	<i>U.S. Magistrate Judge Mikel H. Williams</i>	<i>U.S. Magistrate Judge Larry M Boyle</i>
1. PROCEDURAL ORDERS.	Procedural order is entered by the magistrate judge at the initial appearance. No scheduling conference.	Procedural order is entered by the magistrate judge at the initial appearance. No scheduling conference.	A procedural order based on a standardized form is entered at a defendant's initial appearance. Unless otherwise ordered by the Court, procedural orders are not entered in petty offense cases.	Entered at the time of arraignment in open court.
2. SEALED INFORMATION.	Request to seal should be included within the motion and proposed order. Court will order sealing where appropriate.	Request to seal should be included within the motion and proposed order, certificate of mailing, and envelopes. Court will order sealing where appropriate.	The Court will accept matters submitted under seal, but a written motion <u>and a proposed order</u> should be submitted along with the materials that a party wishes to keep sealed.	Request to seal should be included within the motion and proposed order. Court will order sealing where appropriate. At arraignments, if pretrial services reports are admitted as evidence, they are automatically sealed. Financial affidavits are automatically sealed. Search warrants need proposed orders to seal.
3. TIME FRAMES FOR ACCEPTING PLEAS.	See Local Criminal Rule 11.1.	See Local Criminal Rule 11.1.	The Court will accept a plea at the time of a defendant's initial appearance. Further, the Court will consider a defendant's request to change a plea at any time up to trial.	The Court will accept a plea at the time of a defendant's initial appearance. Further, the Court will consider a defendant's request to change a plea at any time up to trial.

CRIMINAL PROCEDURES				
PROCEDURE	<i>U.S. District Judge Edward J. Lodge</i>	<i>U.S. District Judge B. Lynn Winnill</i>	<i>U.S. Magistrate Judge Mikel H. Williams</i>	<i>U.S. Magistrate Judge Larry M Boyle</i>
4. ARRAIGNMENTS.	Handled by the magistrate judges.	Handled by the magistrate judges.	The date and time for appearance for arraignment is coordinated through the courtroom deputy. At an arraignment proceeding, the Court will discuss: whether appointment of counsel is necessary, the issue of detention, and the entry of a procedural order.	The date and time for appearance for arraignment is coordinated through the courtroom deputy. At an arraignment proceeding, the Court will discuss: whether appointment of counsel is necessary, the issue of detention, and the entry of a procedural order.
5. CONTINUANCES.	Upon good cause shown, continuances are granted as long as the continuance does not violate the Speedy Trial Act.	Upon good cause shown, continuances are granted as long as the continuance does not violate the Speedy Trial Act.	The moving party should contact the courtroom deputy to request a continuance or submit a written motion.	The moving party should contact the courtroom deputy to request a continuance or submit a written motion.
6. ORAL ARGUMENT OR BRIEFING..	Generally, oral argument is only held on motions requiring an evidentiary hearing (i.e., motions to suppress). Discovery matters are normally ruled upon based on the briefing.	Oral argument is usually held. The Court is generally prepared to rule from the bench.	The moving party should contact the courtroom deputy for a hearing date and time or to determine if oral argument is necessary.	The moving party should contact the courtroom deputy for a hearing date and time or to determine if oral argument is necessary.

<b>CRIMINAL PROCEDURES</b>				
<b>PROCEDURE</b>	<b><i>U.S. District Judge Edward J. Lodge</i></b>	<b><i>U.S. District Judge B. Lynn Winmill</i></b>	<b><i>U.S. Magistrate Judge Mikel H. Williams</i></b>	<b><i>U.S. Magistrate Judge Larry M Boyle</i></b>
<b>7. TELEPHONE CONFERENCES.</b>	Not normally held.	Not normally held.	The Court generally prefers not to discuss matters in criminal cases by telephone conference. However, if circumstances or time constraints to not allow for a hearing in person, the Court will make an exception.	The Court generally prefers not to discuss matters in criminal cases by telephone conference. However, if circumstances or time constraints not allow for a hearing in person, the Court will make an exception.
<b>8. SUPERSEDING INDICTMENTS.</b>	May cause trial to be continued if superseded indictment materially changes the nature of charges against defendant.	May cause trial to be continued if superseded indictment materially changes the nature of charges against defendant.	Defendants will be arranged on a superseding indictment. However, in some circumstances, a defendant will be allowed to waive another arraignment. Date and time for arraignments are arranged through the courtroom deputy.	Defendant can waive appearance; they must contact the courtroom deputy to make necessary arrangements.
<b>9. DISCOVERY.</b>	Discovery motions are generally ruled upon based upon briefing.	Discovery motions are generally ruled upon based upon briefing.	The Court prefers to rule on discovery motions after oral argument; however, rulings may also be issued solely on the briefs. Some aspects of discovery are addressed in the procedural order.	The Court prefers to rule on discovery motions after oral argument; however, rulings may also be issued solely on the briefs. Some aspects of discovery are addressed in the procedural order.
<b>10. MOTIONS PRACTICE.</b>	Motions are to be filed in accordance with deadlines set forth in procedural orders.	Motions are to be filed in accordance with deadlines set forth in procedural orders.	Deadline for the filing of motions is set in the procedural order.	Deadline for the filing of motions is set in the procedural order.

<b>CRIMINAL PROCEDURES</b>				
<b>PROCEDURE</b>	<b><i>U.S. District Judge Edward J. Lodge</i></b>	<b><i>U.S. District Judge B. Lynn Winnill</i></b>	<b><i>U.S. Magistrate Judge Mikel H. Williams</i></b>	<b><i>U.S. Magistrate Judge Larry M. Boyle</i></b>
<b>11. PRETRIAL CONFERENCES.</b>	Conducted two weeks prior to every criminal trial in person or by video-conference. The defendant will be present. The Court will use the pretrial conference to determine if the case is going to trial and to resolve pending motions. If the case is not going to trial, counsel is notified that a change of plea hearing may be conducted on the date scheduled for the pretrial conference. Counsel is encouraged to contact a staff attorney regarding the status of their case prior to the pretrial conference date.	The Court occasionally uses pretrial conferences to see if the case is really going to trial and to resolve any non-substantive housekeeping matters. Pretrial conferences are informal, generally, without defendant(s) present.	Rarely used except in complex cases. Court relies on parties to submit comprehensive pretrial memorandum. See Local Rule 33.1. If a pretrial is to be held, the court staff will contact the parties as to scheduling.	Rarely used except in complex cases. Court relies on parties to submit comprehensive pretrial memorandum. See Local Rule 33.1. If a pretrial is to be held, the court staff will contact the parties as to scheduling.
<b>12. VOIR DIRE.</b>	Counsel may submit proposed voir dire to be given by Court. Court may give counsel 10-15 minutes after Court is finished for any follow-up.	Counsel may submit proposed voir dire to be given by Court. Court will give counsel 10-15 minutes for any follow-up after Court is finished.	The Court conducts voir dire. Counsel may submit proposed voir dire questions. However, counsel also assists with questioning.	Counsel may submit proposed voir dire to be given by Court. Court will give counsel 10-15 minutes after Court is finished for any follow-up.
<b>13. DISCLOSURE OF WITNESSES.</b>	Witnesses should be disclosed in accordance with procedural order deadlines.	Disclosure must comply with the Federal Rules and applicable case law.	Disclosure is accomplished in adherence to the Fed. R. Crim. P. and procedural order.	Must be disclosed prior to trial. This is explained in order setting trial.

<b>CRIMINAL PROCEDURES</b>				
<b>PROCEDURE</b>	<b><i>U.S. District Judge Edward J. Lodge</i></b>	<b><i>U.S. District Judge B. Lynn Winmill</i></b>	<b><i>U.S. Magistrate Judge Mikel H. Williams</i></b>	<b><i>U.S. Magistrate Judge Larry M. Boyle</i></b>
<b>14. PRESENTENCE REPORT/ RELEASE OF INFORMATION BY DEFENDANTS.</b>	Final report is returned to Probation and Pretrial Services after sentencing. Disclosure is limited by Fed. R. Cr. P. 32 and Local Criminal Rule 32.	Final report is sealed by the Court after sentencing. Disclosure is limited by Federal Rule of Criminal Procedure and Local Criminal Rule 32.	The Court requests presentence reports in all Class A misdemeanor cases, especially if it is a Guideline case. The Court generally does not request a presentence report in Class B or C cases and infraction cases.	The Court requests presentence reports in all Class A misdemeanor cases, especially if it is a Guideline case. The Court generally does not request a presentence report in Class B or C cases and infraction cases.
<b>15. SENTENCING MEMORANDA.</b>	Not required, but if submitted, should be filed at least one week before sentencing date. Objections to the presentence report must be in writing and should be filed in accordance with Local Rule 32.1. Motions for departure should be filed on or before the date objections are due.	Not required, but if submitted, should be filed at least one week before sentencing date. Objections to the presentence report must be in writing and should be filed in accordance with Local Rule 32.1.	The Court will review and consider sentencing memoranda submitted by counsel prior to a sentencing hearing. In cases where the Court requires sentencing memoranda, a deadline for submission will be set.	Not required, but if submitted, it should be filed at least one week before sentencing date. Objections should be filed in accordance with Local Rule 32.1. In cases where the Court requires sentencing memoranda, a deadline for submission will be set.
<b>16. PROCEDURES IN CRIMINAL CASES DIFFERING IN CIVIL CASES.</b>			The time to respond to a motion in a criminal case is often shortened.	The time to respond to a motion in a criminal case is often shortened.